

Message Text

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ACTION OES-04

INFO OCT-01 IO-10 NRC-05 ACDA-05 AF-06 ARA-06 CIAE-00

DODE-00 EA-06 EUR-12 PM-03 H-02 INR-07 L-02 NASA-01

NEA-09 NSAE-00 NSC-05 OIC-02 SP-02 PA-01 PRS-01 SS-15

USIA-06 SAJ-01 ISO-00 /112 W
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R 171444Z MAR 75

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 5605

INFO AEC GERMANTOWN

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 2299

E.O. 11652: GDS

TAGS: IAEA, PARM, TECH

SUBJ: PHYSICAL PROTECTION OF NUCLEAR MATERIALS

1. DURING RECENT VISIT TO VIENNA BY J. PENDER (OGC/ERDA), CHIEF OF AGENCY LEGAL DIVISION (OTSUKA) REQUESTED CONSULTATIONS REGARDING POSSIBLE IAEA ROLE IN FORMULATION OF NEW INTERNATIONAL UNDERTAKINGS IN FIELD OF PHYSICAL PROTECTION OF NUCLEAR MATERIALS. MEETING TOOK PLACE MARCH 11 IN OTSUKA'S OFFICE WITH OTSUKA AND COLLEAGUE JOHN RAMES (AUSTRALIA), PENDER AND MISOFFS PARTICIPATING.

2. OTSUKA OPENED DISCUSSION BY NOTING THAT THE TERM "CONVENTION" HAD BEEN USED BY SECRETARY KISSINGER IN HIS ADDRESS TO UNGA LAST SEPTEMBER AND BY OTHER USG OFFICIALS SINCE THEN IN REFERRING TO NEED FOR INTERNATIONAL FRAMEWORK OF PHYSICAL PROTECTION MEASURES IN USE, TRANSFER AND STORAGE OF NUCLEAR MATERIALS. AGENCY WAS NOT SURE HOW BEST TO PROCEED IN THIS CONTEXT AND WOULD WELCOME FURTHER ELABORATION OF WHAT USG SPECIFICALLY HAD IN MIND, PARTICULARLY WITH REGARD AGENCY'S ROLE. OTSUKA RECALLED THAT THE AGENCY'S EXPERIENCE IN LAUNCHING INTERNATIONAL CONVENTIONS HAD NOT BEEN PARTICULARLY
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SUCCESSFUL. FOR EXAMPLE, VIENNA CONVENTION ON CIVIL

LIABILITY (1968), THOUGH INVOLVING LENGTHY NEGOTIATING SESSIONS AND LARGE DELEGATIONS, HAD YET TO COME INTO FORCE FOR LACK OF RATIFICATION BY REQUIRED NUMBER OF STATES. WAS USG, HE ASKED, LOCKED IN TO FORMAL CONVENTION APPROACH, OR WAS TERM USED IN GENERAL WAY TO CONVEY IDEA OF NEED FOR SOME FORM OF INTERNATIONAL UNDERTAKING OR COORDINATION IN PHYSICAL PROTECTION FIELD?

3. US SIDE REPLIED THAT IMPORTANT POINT WAS THE RESULT ACHIEVED, NOT THE VEHICLE ITSELF. INTERNATIONAL AGREEMENT WITH SOME FORM OF COMMITMENT ON NATIONAL PHYSICAL PROTECTION MEASURES, AT EARLIEST POSSIBLE TIME, WAS OBJECTIVE. COULD TAKE THE FORM OF A CONVENTION, OR OTHER FORMS AS LONG AS THAT GOAL WAS ACHIEVED. IN AGENCY'S DOCUMENT "RECOMMENDATIONS FOR THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL" PRINTED IN 1972 (GREY BOOK) THERE ALREADY EXISTED A FOUNDATION FOR A POSSIBLE ALTERNATIVE APPROACH. PRESENT GREY BOOK RECOMMENDATIONS WERE LIMITED IN CONTENT AND ADDRESSED ONLY MEASURES FOR PHYSICAL PROTECTION WITHIN STATES. HOWEVER, AGENCY TECHNICAL PANEL SCHEDULED FOR APRIL WOULD HAVE AS ITS TASK THE REVISING AND UPDATING OF THE 1972 RECOMMENDATIONS. PANEL'S PRODUCT WOULD PRESEABLY BE PRESENTED TO BOARD OF GOVERNORS FOR APPROVAL FOR IMPLEMENTATION IN CONNECTION WITH ALL "AGENCY PROJECTS," AS DEFINED IN IAEA STATUTE, IN SAME WAY AS AGENCY'S HEALTH AND SAFETY STANDARDS ARE NOW MANDATORY. IN ADDITION, BOARD WOULD ALSO APPROVE ISSUANCE OF REVISED GREY BOOK AS IAEA'S RECOMMENDATIONS TO MEMBER STATES. QUESTION WHICH WOULD REMAIN WOULD BE FIRM INTERNATIONAL UNDERTAKING BY STATES TO ADOPT RECOMMENDATIONS IN NATIONAL LEGISLATION OR REGULATIONS.

4. THERE WERE, IT WAS AGREED, SEVERAL AVENUES OF APPROACH TO THIS QUESTION. LEAST LIKELY TO ACHIEVE OBJECTIVE WAS LARGE DIPLOMATIC CONFERENCE TO PRODUCE FORMAL CONVENTION. CREATION OF COMMITTEE OF WHOLE MEMBERSHIP, REPRESENTED BY KNOWLEDGEABLE PEOPLE, SIMILAR TO SAFEGUARDS COMMITTEE WHICH OVER SPACE OF NINE MONTHS OF NEGOTIATIONS IN VIENNA HAD PRODUCED STANDARD CONTENTS OF NPT SAFEGUARDS AGREEMENTS, MIGHT BE DESIRABLE APPROACH. COMMITTEE COULD DRAFT MODEL CONFIDENTIAL

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NATIONAL REGULATIONS WHICH INDIVIDUAL STATES COULD ADOPT UNILATERALLY OR IN COORDINATED MANNER. SUPPLIERS GROUP (ZANGGER COMMITTEE) OFFERED EXAMPLE OF WAY TO ACHIEVE COORDINATED ACTION BY INDIVIDUAL STATES OUTSIDE FORMAL AGENCY CONTEXT. USING COMMITTEE'S RECOMMENDATIONS AS STARTING POINT, SIMILAR GROUP MIGHT GO ON TO SECURE UNDERTAKINGS BY SUPPLIER STATES WHICH WOULD REQUIRE RECIPIENT STATES TO IMPLEMENT ENTIRE PACKAGE OF PHYSICAL

PROTECTION MEASURES AS CONDITION OF SUPPLY. PURPOSE THIS MIGHT BE ACHIEVED, WITHOUT RECOURSE TO LARGE, POLITICALLY ORIENTED INTERNATIONAL GATHERING. UNILATERAL ADOPTION OF NATIONAL REGULATIONS OR DECLARATIONS OF OFFICIAL POLICY (AS WAS CASE IN EXCHANGE OF NOTES BETWEEN SUPPLIER COUNTRIES IN ZANGGER COMMITTEE EXERCISE) MIGHT NOT, HOWEVER, FULLY SATISFY REQUIREMENTS FOR ASSURANCE THAT STATES ARE IMPLEMENTING STANDARDS OR FOR SANCTIONS IN EVENT OF FAILURE TO DO SO. THIS ASPECT MIGHT BE SUBJECT OF FURTHER MULTINATIONAL NEGOTIATION, ONCE INITIAL GOAL ACHIEVED. OTHER ASPECTS WHICH MIGHT BE MORE DIFFICULT TO ADDRESS VIA COORDINATED UNILATERAL APPROACH ARE (A) COOPERATION BY NATIONAL AUTHORITIES IN EVENT OF THEFT OF NUCLEAR MATERIAL AND ITS REMOVAL TO ANOTHER STATE'S JURISDICTION AND (B) RESPONSIBILITIES FOR PHYSICAL PROTECTION DURING TRANSPORT BETWEEN JURISDICTIONS. THOSE ASPECTS, TOO, MIGHT BE EASIER TO RESOLVE ONCE SUBSTANTIAL NUMBER OF STATES HAD ADOPTED UNIFORM NATIONAL REGULATIONS.

5. ONE FACTOR WHICH APPEARED TO ARGUE IN FAVOR OF CO-ORDINATED UNILATERAL ACTION AS INITIAL STEP WAS KNOWN OPPOSITION BY SOME STATES IN PAST -- NOTABLY FRANCE -- TO

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ACTION OES-04

INFO OCT-01 IO-10 NRC-05 ACDA-05 AF-06 ARA-06 CIAE-00

DODE-00 EA-06 EUR-12 PM-03 H-02 INR-07 L-02 NASA-01

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TO SECSTATE WASHDC 5606

INFO AEC GERMANTOWN

C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 2299

WHAT THEY PERCEIVE AS INVASION OF SOVEREIGNTY IMPLIED BY ANY INVOLVEMENT BY IAEA IN SUBJECT OR IN "IMPOSITION" OF PHYSICAL PROTECTION MEASURES. AT FRENCH INSISTENCE, GREY BOOK ITSELF WAS NOT IDENTIFIED AS AGENCY RECOMMENDATIONS BUT RATHER THOSE OF GROUP OF CONSULTANTS AND WAS MADE AVAILABLE BY IAEA TO MEMBERS ONLY ON REQUEST. FRENCH GOVT. MIGHT HAVE CHANGED ITS VIEWS ON THIS MATTER IN PAST THREE YEARS, BUT IT SEEMED UNLIKELY THAT LARGE INTERNATIONAL CONFERENCE WOULD PROVIDE IDEAL VEHICLE FOR FRENCH AND OTHERS TO EXHIBIT WILLINGNESS TO GO ALONG.

6. FOR SAME REASON, AMONG OTHERS, QUESTION OF AGENCY'S ROLE IN IMPLEMENTATION OF ANY SORT OF INTERNATIONAL ARRANGEMENTS ON PHYSICAL PROTECTION WOULD HAVE TO BE APPROACHED WITH GREAT CARE. ONE APPROACH MIGHT BE FOR AGENCY TO BE REQUESTED BY INDIVIDUAL STATES TO HAVE ITS INSPECTORS INCLUDE A CHECK OF PHYSICAL PROTECTION MEASURES IN EFFECT IN THAT STATE AS PART OF THEIR SAFEGUARDS INSPECTION. CREATION OF A SEPARATE "INSPECTORATE" FOR PHYSICAL PROTECTION WOULD PROBABLY BE POLITICALLY IMPOSSIBLE. THOSE WHO WOULD NOT ATTACK IT AS AN UNACCEPTABLE INTERNATIONAL GENDARMERIE WOULD DENOUNCE THE CONFIDENTIAL

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ADDITIONAL BUDGETING REQUIRED. THE PRESENT SAFEGUARDS REGIME ITSELF IS ROUTINELY ATTACKED BY LDC SPOKESMEN AS AN UNNECESSARY AGENCY EXPENSE WHICH DIVERTS FUNDS AWAY FROM TECHNICAL ASSISTANCE. ANOTHER SERVICE THE AGENCY MIGHT RENDER IS TO MAINTAIN A REGISTER OF NATIONAL PHYSICAL PROTECTION AUTHORITIES WILLING TO ASSIST OTHER STATES IN EVENT OF EMERGENCY, AND TO SERVE AS CENTRAL POINT IN COMMUNICATIONS IN EMERGENCIES.

7. OTSUKA EXPRESSED GREAT APPRECIATION FOR THE DISCUSSION (LASTING TWO AND ONE-HALF HOURS) WHICH, HE SAID, HAD GIVEN HIM A BETTER IDEA OF WHAT USG HAD IN MIND. HE WAS ESPECIALLY RELIEVED TO REALIZE THAT OUR REQUIREMENTS PERMITTED SOME FLEXIBILITY OF APPROACH. AT OUR SUGGESTION, HE AGREED TO CONSULT WITH US FURTHER ON MATTER AND WITH OTHER LOCAL RESREPS AS WELL BEFORE COMMITTING AGENCY TO FIXED COURSE OF ACTION.

8. PENDER VISIT, LIKE VISIT OF GILLER LAST FALL, WAS VERY HELPFUL IN THIS MATTER. MISSION WOULD WELCOME ANY FURTHER INFORMATION BEARING ON USG'S VIEWS THIS MATTER. LABOWITZ

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